

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

RAYMOND ORTIZ, JR.,

Plaintiff,

v.

DOLLAR TREE STORES, INC.

Defendants

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CIVIL ACTION NO. 6:19-cv-00693  
**JURY**

**NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant **DOLLAR TREE STORES, INC.**, (“Dollar Tree”) hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removing the above-captioned case to the United States District Court for the Western District of Texas, Waco Division. The grounds for removal are as follows:

**I. Introduction**

1. Plaintiff Raymond Ortiz, Jr. (“Plaintiff” or “Ortiz”), at the time this action was commenced, was, and still is, a resident and a citizen of Texas.

2. Defendant Dollar Tree Stores, Inc. is a corporation formed under the laws of the Commonwealth of Virginia, having its principal place of business now and at the time this action was commenced in Chesapeake, Virginia. Thus, Defendant is now and was at the time this action was commenced a citizen of the Commonwealth of Virginia and of no other state.

3. Plaintiff claims that on or about September 4, 2018, while Plaintiff was entering Dollar Tree, he tripped and fell on a defective sidewalk at Defendant’s place of business. Plaintiff’s Original Petition at p. 2. Plaintiff contends that he suffered severe injuries as a result of same. *Id.*

4. On or about October 30, 2019, Plaintiff commenced a lawsuit in the County Court at Law No. 3 of Bell County, Texas, Cause No. 89922, styled *Raymond Ortiz, Jr. v. Dollar Tree Stores, Inc.* *Id.* at p. 1.

5. Plaintiff avers, inter alia, that Dollar Tree is liable for the failing to keep the premises in a safe condition. *Id.* at p. 5 ¶ VII. Consequently, Plaintiff seeks to recover damages for negligence. *Id.*

## **II. Grounds for Removal**

### **A. Complete Diversity of Citizenship Exists Between the Parties and the Amount in Controversy Exceeds \$75,000.00**

6. Plaintiff is a citizen and a resident of Texas.

7. Defendant Dollar Tree Stores, Inc. is a corporation formed under the laws of the Commonwealth of Virginia, having its principal place of business now and at the time this action was commenced in Chesapeake, Virginia. Thus, Defendant is now and was at the time this action was commenced a citizen of the Commonwealth of Virginia and of no other state.

8. Thus, the parties are completely diverse. *See* 28 U.S.C. § 1332(a).

9. Plaintiff is seeking damages in excess of \$75,000.00. *See* Plaintiff's Original Petition at p. 3. Therefore, the amount in controversy exceeds \$75,000.00.

### **B. Venue is Proper in This Division and in This District.**

10. Plaintiff filed this action in Bell County, Texas. The Waco Division of the Western District of Texas encompasses Bell County, Texas. Thus, this district and division embrace the place where the state court action is pending. *See* 28 U.S.C. §1441(a).

### **III. Procedural Requirements for Removal**

11. This Notice of Removal is filed within thirty days of the date on which Defendant received the summons and complaint. Thus, this Notice of Removal is timely. *See* 28 U.S.C. § 1446(b).

12. Copies of all processes, pleadings, and orders have been filed separately with this Court. *See* 28 U.S.C. § 1446(a).

13. Pursuant to Local Rule 81 of the Western District of Texas, the following documents are attached to this Notice of Removal: copy of all processes, attached hereto as Exhibit “A”; all pleadings attached hereto as Exhibit “B”; an Index of Matters Being Filed, attached hereto as Exhibit “C”; and a list of all Counsel of Record, including addresses, telephone numbers and parties represented is attached hereto as Exhibit “D”.

15. A copy of this Notice of Removal will be filed with the Bell County District Clerk’s office promptly and will be served on Plaintiff promptly. *See* 28 U.S.C. § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005) (Crone, J).

16. The filing fee has been paid to the Clerk.

### **IV. Prayer**

17. WHEREFORE, PREMISES CONSIDERED, Defendant **DOLLAR TREE STORES, INC.** prays that the above-styled action now pending in the County Court at Law No. 3 of Bell County, Texas be removed there from to this Honorable Court.

18. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiff’s Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully submitted,

**GERMER, PLLC**

By: /s/ Robin N. Blanchette

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ATTORNEY FOR DEFENDANT  
DOLLAR TREE STORES, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been duly sent via facsimile on December 6, 2019 to all counsel of record, as follows:

**Via E-serve**

***Facsimile: (254) 771-5887***

William T. Wilson

Attorney and Counselor at Law, Ltd

E. Rhodes and Leona B. Carpenter Plaza

100 West Adams Avenue, Suite 301

Temple, Texas 76501

\_\_\_\_\_/s/ Robin N. Blanchette\_\_\_\_\_  
Robin N. Blanchette